

REMARKS

Claims 2-9 and 11-16 were previously pending in this Application. Claims 14-16 are withdrawn from consideration by the Examiner at this time, and claims 2-9 and 11-13 stand rejected by the Examiner. By this Amendment, claim 2 has been amended, claim 12 has been canceled, and no new claims have been added. As a result, claims 2-9, 11, and 13 are pending and under examination. No new matter has been added to the present Application by this Amendment.

Each of the rejections levied in the outstanding final Office Action is addressed individually below.

Rejection under 35 U.S.C. § 112, first paragraph

Claims 2-9 and 11-13 stand rejected by the Examiner under 35 U.S.C. § 112, first paragraph, for lack of enablement. Without agreeing with the Examiner's argument and solely to further prosecution, Applicant has amended the claims and respectfully submits the amended claims are fully supported by the specification as originally filed. Applicant therefore requests that this rejection be removed. Applicant reserves the right to pursue subject matter canceled from the present Application in future applications claiming priority to the present Application.

Rejection under 35 U.S.C. § 103

Claims 2-9 and 11-13 stand rejected by the Examiner under 35 U.S.C. § 103 as being obvious over U.S. Patent 6,670,372 to Charles *et al.* ("the '372 patent") in view of U.S. Patent 7,038,051 to Gerster *et al.* ("the '051 patent"). Applicant submits that the presently amended claims do not include the possibility of Z being -CH=CH- or X' including an intervening -O- atom in the alkyl chain in the definition of R₁. Neither the '372 patent nor the '051 patent teaches the particular structural features of the claimed compounds. All the examples of the '372 patent include an intervening oxygen atom in the linker between the phenyl moiety and the tricyclic ring system. And none of the examples of the '051 patent include an alkynyl moiety in the linker but rather most examples include an amide, urea, or carbamate moiety in the linker. Therefore, given the structural differences between the compounds in the cited references and those of the claimed invention,

Applicant respectfully submits that the claimed compounds are not obvious in view of the cite art and requests the withdrawal of this rejection.

Obviousness-type Double Patenting

The Examiner has maintained the provisional obviousness-type double patenting rejection over co-pending U.S. patent application, U.S.S.N. 11/570,707. Applicant respectfully submits that the pending claims in the present Application are not obvious in light of the '707 application. The compounds claimed in the '707 application do not include a linker with an alkyne moiety or a terminal phenyl moiety. Even if the claimed compounds were previously obvious in view of the '707 application, which the Applicant does not concede, the compounds as presently claimed are certainly not obvious. Furthermore, the present Application is the earlier filed case and should be allowed to issue. If necessary, any double patenting issues can be dealt with in the later filed '707 application.

In view of the above Amendment, Applicant believes the pending Application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 23/2825, under Docket No. C1271.70083US01, from which the undersigned is authorized to draw.

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Respectfully submitted,

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